IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 925 of 2001
in
SPECIAL CIVIL APPLICATIONNo 1398 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANSUKHLAL JADURAM SONI
Versus
STATE OF GUJARAT

Appearance:
1. LETTERS PATENT APPEAL No. 925 of 2001
MR SURESH C SHAH for Appellant No. 1
Mr P R Joshi, AGP for Respondent No. 1
NOTICE SERVED for Respondents No. 2-3
MR NV ANJARIA for Respondent No. 4

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.P.BUCH

Date of decision: 01/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

In this appeal, the order passed by the learned Single Judge in Special civil Application No.1398 of 2000 dated 21.3.2001 has been challenged. The facts giving rise to the present litigation in a nutshell are as under:

2. The appellant had applied for grant of a particular plot of land for construction of his residential house but the said land was not allotted to the appellant as it was allotted to respondent no.4. Being aggrieved by the said action of respondent No.3-Collector, Bhuj, Special Civil Application No.1398 of 2000 was filed. The said petition was rejected as the learned Single Judge found that respondent no.4 had also given an application for grant of the said land. It appears from the record that the appellant had submitted his application for allotment of the plot in question on 28.9.1993 whereas application for grant of the land in question was submitted by respondent no.4 on 21.12.1992. As application given by respondent no.4 was earlier in point of time, the land in question was allotted to respondent no.4. In view of the above facts, the learned Single Judge rejected the petition.

3. We have heard Mr S C Shah, learned Advocate for the appellant, learned AGP Mr P R Joshi for respondent Government authorities and Mr N V Anjaria, learned Advocate for respondent no.4, who has been allotted the land in question.

4. Learned Advocate Mr Shah has submitted that the land in question should have been allotted to the appellant. He could not deny the fact that the application given by respondent no.4 in respect of the land in question was prior in time.

5. It has been submitted by learned AGP Mr P R Joshi that by letter dated 3.8.1996 the appellant has been informed to give a fresh application for another land along with a sketch of the land required by him etc. and if such an application is given, the request of the appellant for grant of land would be considered in accordance with law.

6. In our opinion, the learned Single Judge was absolutely right while rejecting the petition and even the Collector, Bhuj has acted with fairness while giving intimation to the appellant for giving another application so that his application can be considered in

accordance with law. In the circumstances, we are not inclined to entertain this appeal and the appeal is dismissed. Needless to say that if the appellant submits a fresh application for grant of land, the Collector will look into the application and pass appropriate order in accordance with law. Dismissal of this appeal will not deprive the appellant of a right to submit a fresh application for grant of another plot and the application, if any, made by the appellant shall also not be adversely affected due to dismissal of this appeal.

The appeal stands disposed of. Notice discharged with no order as to costs.

1.11.2001 [A R Dave, J.] [D P Buch, J.]
msp